

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

HONORABLE NANCY G. EDMUNDS

v.

No. 14-CR-20119

D-1 RAMIAH JEFFERSON
D-2 DRAKKAR BERAL CUNNINGHAM
D-3 EVAN ALEXANDER JOHNSON
D-4 MARIO PHILLIP GARNES
D-5 ALEXANDER DESHAWN GEORGE
D-6 MARCUS ANDRE HARVEY
D-7 EVERETTE RAMON GEORGE
D-8 GERALD DESHAWN TURNER
D-9 DAVID LAMAR GAY

Defendants.

EXCERPT OF MOTION HEARING

Monday, June 22, 2015

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Proceeding

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(Excerpt of Motion Hearing)

Defendant's Case in Chief

Witness: LaVonna Howard

Direct Examination by Mr. Scharg

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LaVonna Howard - Direct Examination
Monday, June 22, 2015

1 Detroit, Michigan

2 Monday, June 22, 2015

3 10:13 a.m.

4 - - -
5 **LAVONNA HOWARD,**

6 being first duly sworn by the Court to tell the truth,
7 was examined and testified upon her oath as follows:

10:36 8 **THE COURT:** Take the stand, please.

10:36 9 Mr. Scharg, you may proceed.

10:36 10 (10:36 a.m.)

10:36 11 **DIRECT EXAMINATION**

10:36 12 **BY MR. SCHARG:**

10:36 13 Q. Good morning, witness, please state your name.

10:36 14 A. LaVonna Nishelle Howard.

10:36 15 Q. Ms. Howard, I'm going to take you back to March 30 of
10:36 16 2013.

10:36 17 A. Yes.

10:37 18 Q. Okay. And were you with your mother, Sue Golston, about
10:37 19 5:00 in the afternoon on that date?

10:37 20 A. Yes.

10:37 21 Q. And did you happen to be at 15865 Stout in the City of
10:37 22 Detroit?

10:37 23 A. Yes.

10:37 24 Q. And does your mother live there?

10:37 25 A. She lives across the street.

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10:37 1 Q. Okay. And does your father live there?

10:37 2 A. Yes.

10:37 3 Q. Okay. And did there come a time when an individual

10:37 4 approached your father?

10:37 5 A. Yes.

10:37 6 Q. And where was he at that time?

10:37 7 A. He was standing in the front yard.

10:37 8 Q. Okay. And where were you?

10:37 9 A. I was -- my sister lives next door, so I was standing on

10:37 10 my sister's porch.

10:37 11 Q. Approximately how far were you standing from your father?

10:37 12 A. Maybe this desk to the wall.

10:37 13 **MR. SCHARG:** Can we stipulate approximately 15 to

10:37 14 20 feet?

10:37 15 **MR. DOEH:** Yes, Your Honor.

10:38 16 **THE COURT:** That looks about right.

10:38 17 **BY MR. SCHARG:**

10:38 18 Q. And the individual that approached your father, did you

10:38 19 have an opportunity to observe him?

10:38 20 A. Yes.

10:38 21 Q. Can you describe him at that time?

10:38 22 A. I would guess him to be in his late twenties, maybe early

10:38 23 30's, approximately six feet, light skinned, wearing blue

10:38 24 jeans. He had on a gray sweatshirt with lettering across the

10:38 25 front which was HFCC. He had on tan boots that were, like, of

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10:38 1 a Timberland style.

10:38 2 Q. And did you see where he had come from?

10:38 3 A. Yes.

10:38 4 Q. And where was that?

10:38 5 A. He came -- he got out of a vehicle that parked across the

10:38 6 street.

10:38 7 Q. Could you tell what type of vehicle it was at the time?

10:38 8 A. I could. I can't remember exactly what the car -- I

10:38 9 remember what it looks like. I don't remember the style, the

10:38 10 make or model.

10:38 11 Q. Okay. From the time that he exited the vehicle and made

10:39 12 contact with your father and then left, did he leave in the

10:39 13 car?

10:39 14 A. Yes, he did.

10:39 15 Q. How long did that whole incident take in terms of time?

10:39 16 From the time he got out of the car, he approached your

10:39 17 father, and he made contact with your mother, is that correct?

10:39 18 A. Yes.

10:39 19 Q. And then he got back into his car and he left?

10:39 20 A. Yes.

10:39 21 Q. Would you say that was more than a minute?

10:39 22 A. Yes.

10:39 23 Q. How much more?

10:39 24 A. Somewhere between that and five minutes.

10:39 25 Q. Between one minute and five minutes?

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10:39 1 A. Yes.

10:39 2 Q. And is it fair to say that you did not look at him the

10:39 3 entire time? Did you observe him the whole time?

10:39 4 A. Yes, I did.

10:39 5 Q. At some point, did you see him pull some type of object

10:39 6 out of his pocket?

10:39 7 A. Yes, I did.

10:39 8 Q. And what was that?

10:39 9 A. A gun.

10:39 10 Q. Did you see anything else come out of his pocket at that

10:39 11 time?

10:39 12 A. There was a piece of paper that fell.

10:40 13 Q. Did you see it fall out of his pocket?

10:40 14 A. Yes.

10:40 15 Q. After the, this incident, the perpetrator left the scene?

10:40 16 A. Yes, he did.

10:40 17 Q. And what did you do?

10:40 18 A. I got in my car, and I was going to go to the police

10:40 19 department. The closest one to their location is Plymouth and

10:40 20 near Evergreen.

10:40 21 Q. Yes?

10:40 22 A. So I was headed there, but as I turned -- they live off of

10:40 23 Fenkell. As I turned off of Fenkell and approached Evergreen,

10:40 24 I happened to see a police officer coming out of the gas

10:40 25 station at that point, and I flagged him down.

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10:40 1 Q. Very good. When you flagged down the officer, was it one
10:40 2 or two officers?
10:40 3 A. Two.
10:40 4 Q. Could you describe whether they were white or black or --
10:40 5 A. I believe one was --
10:40 6 **MR. DOEH:** Objection, Your Honor --
10:40 7 A. -- black --
10:40 8 **MR. DOEH:** -- what does that matter?
10:40 9 A. -- and one was white.
10:40 10 **THE COURT:** Overruled. Go ahead.
10:40 11 **MR. SCHARG:** I'll move on.
10:40 12 **BY MR. SCHARG:**
10:40 13 Q. You spoke with the officers? Besides giving them your
10:40 14 name and your phone number, did you give any description
10:41 15 regarding the person, the perpetrator of this crime or a
10:41 16 description of the vehicle?
10:41 17 A. The car, yes, not the person.
10:41 18 Q. You didn't give a description of the individual?
10:41 19 A. No.
10:41 20 Q. And why not?
10:41 21 A. He didn't ask for it.
10:41 22 Q. Okay. But you gave a description of the vehicle?
10:41 23 A. Yes.
10:41 24 Q. And what did you give as a description of the vehicle?
10:41 25 A. As I said, I can't remember the make of the car. I

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10:41 1 remember it being silver.

10:41 2 Q. Okay. Now, did you speak with police five days later, on
10:41 3 April 4th?

10:41 4 A. Probably was approximately, yes.

10:41 5 Q. Okay. Did some police officers come to your home in Oak
10:41 6 Park?

10:41 7 A. Yes, they did.

10:41 8 Q. Okay. Between the time that you spoke to the officers
10:41 9 that you had flagged down at the gas station and the time that
10:41 10 some officers arrived at your house on April 4th, did you
10:41 11 talk to any police officers, giving a description of the
10:41 12 perpetrator?

10:41 13 A. I went to the Sixth Precinct after picking up that piece
10:42 14 of paper to give them that. They told me that the officer
10:42 15 that I had spoken to that day should have made a report
10:42 16 already, so they basically just gave it back to me.

10:42 17 Q. Okay. So you went to the police station the same day of
10:42 18 the incident, or --

10:42 19 A. No, I think it was that Monday because Sunday -- this
10:42 20 happened the day before Easter.

10:42 21 Q. On a Saturday?

10:42 22 A. Yes.

10:42 23 Q. Okay.

10:42 24 A. So it was most likely that Monday.

10:42 25 Q. So you had the piece of paper which was some type of

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10:42 1 automotive receipt?

10:42 2 A. Yes.

10:42 3 Q. You had it that day, Saturday?

10:42 4 A. I had it Sunday.

10:42 5 Q. Sunday, you received it from your brother?

10:42 6 A. Yes.

10:42 7 Q. Okay. At church?

10:42 8 A. Yes.

10:42 9 Q. Okay. And you went to the police station on Monday, is

10:42 10 that correct?

10:42 11 A. Yes.

10:42 12 Q. And Monday you went with this receipt?

10:42 13 A. Yes.

10:42 14 Q. And you went with -- to make a statement?

10:42 15 A. Yes.

10:42 16 Q. And they did not -- they refused to take a statement from

10:42 17 you?

10:42 18 A. Yes, they did.

10:43 19 Q. And what precinct was that?

10:43 20 A. Sixth Precinct that's on Plymouth Road near Evergreen in

10:43 21 Detroit.

10:43 22 Q. Okay. Now, going forward from Monday, later that week

10:43 23 several Detroit police officers came to your house in Oak

10:43 24 Park?

10:43 25 A. Yes.

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10:43 1 Q. And did they come to your house to talk to you about the
10:43 2 incident that occurred with your father, the attempted
10:43 3 robbery, or did they come regarding another incident?
10:43 4 A. No, they came regarding that incident with my dad.
10:43 5 Q. Okay. Do you know an individual by the name of Darlene
10:43 6 Griffin?
10:43 7 A. No.
10:43 8 Q. Okay. So on April 4th, officers came to your house in
10:43 9 Oak Park regarding the attempted robbery?
10:43 10 A. Yes.
10:43 11 Q. How many times did they come to your house that day?
10:43 12 A. Twice.
10:43 13 Q. Okay. The first time they came to your house, would that
10:43 14 have been in the morning?
10:43 15 A. It might have been late morning.
10:43 16 Q. Okay. And what did you discuss at that time?
10:43 17 A. They took a statement as to what happened.
10:43 18 Q. Okay.
10:43 19 A. So we discussed the events of that day.
10:44 20 Q. Okay. And did you give them a copy of the description of
10:44 21 the vehicle at that time? Did you give them a copy of the
10:44 22 receipt?
10:44 23 A. Yes.
10:44 24 Q. The repair receipt at that time?
10:44 25 A. Yes, I did.

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10:44 1 Q. And did they show you any pictures at that time?

10:44 2 A. Not at that time, no.

10:44 3 Q. Okay. Now, they returned to your -- the same officers

10:44 4 returned to your house later that day?

10:44 5 A. Yes, they did.

10:44 6 Q. Would that have been Officer Little, Patricia Little?

10:44 7 A. Yes.

10:44 8 Q. And another officer by the name of Robert Holmes?

10:44 9 A. Sounds familiar, yes.

10:44 10 Q. Okay. Did you know they were going to come back that

10:44 11 afternoon?

10:44 12 A. Yes, I did.

10:44 13 Q. Later that day. And what was the reason for them to come

10:45 14 back?

10:45 15 A. With the photo lineup.

10:45 16 Q. Okay. Now, other than -- so on the 4th of April, that's

10:45 17 the first time you gave any police officer a description of

10:45 18 the perpetrator, is that correct?

10:45 19 A. That's the first opportunity I had to give them, yes.

10:45 20 Q. Okay. But that's also the first time.

10:45 21 A. Yes.

10:45 22 Q. And did you have an opportunity prior to April 4th to

10:45 23 write down, you know, a description of the person that you

10:45 24 saw?

10:45 25 A. If I had done it on my own, but I didn't need to write

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10:45 1 down a description.

10:45 2 Q. Okay. And one more question and I'll move on to the photo

10:45 3 array itself. You stated that at the -- on the day of this

10:46 4 attempted robbery when you flagged down the police car, you

10:46 5 gave a description of the vehicle itself?

10:46 6 A. Uh-huh.

10:46 7 Q. Other than -- and you're positive that you gave a

10:46 8 description?

10:46 9 A. I told them what kind of car it was, yes.

10:46 10 Q. Which was a gray car?

10:46 11 A. If I can remember right.

10:46 12 Q. Oh, you don't even remember what you told them?

10:46 13 A. It's been two years ago, sir.

10:46 14 Q. Okay. But you remember you gave him a description of the

10:46 15 car?

10:46 16 A. Yes.

10:46 17 Q. And as you did with the description of the perpetrator,

10:46 18 when it came to April 4th, when you talked to Officer Holmes

10:46 19 and Officer Little, is it fair to say, did you give them a

10:46 20 description that day of the vehicle you saw?

10:46 21 A. It would be fair to say, yes.

10:46 22 Q. And you're sure you saw an individual, the perpetrator,

10:46 23 the person who attempted to rob your parents, you are positive

10:46 24 you saw him step out of a car and get back into a car.

10:47 25 A. Yes, I am, very positive.

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10:47 1 Q. Okay. Now, when the officers came back later that day,
10:47 2 they had some pictures for you to look at?

10:47 3 A. Yes, they did.

10:47 4 Q. Do you recall, were they single photographs, or were they
10:47 5 in some type of board, a six pack, they would call it?

10:47 6 A. Yes.

10:47 7 Q. Is that what it was, a six pack?

10:47 8 A. It was six photos on one paper.

10:47 9 Q. And what were you told before you looked at the photos?

10:47 10 Were you asked if you could identify the person if you saw him
10:47 11 again?

10:47 12 A. Yes.

10:47 13 Q. Okay. And your response was?

10:47 14 A. I viewed the photos and I picked out the guy that was
10:47 15 there.

10:47 16 Q. Were you told that the person who attempted to rob your
10:47 17 parents would be in those, in that group of photos?

10:47 18 A. No.

10:47 19 Q. What were you told, specifically?

10:47 20 A. I was asked if I could identify the person from that
10:47 21 particular incident that day.

10:47 22 Q. And that's a person you had never seen before that day, is
10:47 23 that correct?

10:47 24 A. No, I had not.

10:47 25 Q. And you've never seen him since?

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10:47 1 A. I saw him in court after that.

10:47 2 Q. No, but you hadn't seen him from the time of the robbery
10:48 3 on March 30th, you had not seen him before March 30th?

10:48 4 A. No, I had not.

10:48 5 Q. And you had not seen him again when you went through these
10:48 6 photographs, is that correct?

10:48 7 A. No, I had not.

10:48 8 Q. But after the attempted robbery, you did drive through the
10:48 9 neighborhood looking for him or his vehicle, is that correct?

10:48 10 A. Yes.

10:48 11 Q. And you also saw some vehicles that looked like the
10:48 12 vehicle that was used, is that correct?

10:48 13 A. Yes.

10:48 14 Q. And you thought that one of those vehicles was the getaway
10:48 15 car?

10:48 16 **MR. DOEH:** Objection, Your Honor. What does that
10:48 17 have to do with --

10:48 18 **THE COURT:** Sustained.

10:48 19 **MR. SCHARG:** It goes to --

10:48 20 **THE COURT:** Sustained.

10:48 21 **MR. SCHARG:** It says -- there's a sticker,
10:48 22 Government Exhibit 1. Can we just roll with that?

10:49 23 **THE COURT:** Sure.

10:49 24 **MR. SCHARG:** May I approach?

10:49 25 **THE COURT:** You may.

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10:49 1 **BY MR. SCHARG:**

10:49 2 Q. Ms. Howard, I'm going to give you proposed Exhibit 1 and

10:49 3 ask you if that's the photo array that you saw on that day.

10:49 4 A. Yes, it is.

10:49 5 Q. All right. And when you looked at that, when you viewed

10:49 6 that array, who was present besides yourself?

10:49 7 A. Just the two officers.

10:49 8 Q. Pardon me?

10:49 9 A. The two officers.

10:49 10 Q. Okay. And you picked out number 6, is that correct?

10:49 11 A. Yes.

10:49 12 Q. And what was it about number 6 that drew your attention?

10:49 13 **MR. DOEH:** Objection, Your Honor. What's the

10:49 14 relevance?

10:49 15 **THE COURT:** Yeah, I don't see the relevance of that

10:49 16 either. Sustained.

10:49 17 **BY MR. SCHARG:**

10:49 18 Q. Did you -- did anyone -- it took you two seconds to pick

10:49 19 out the photograph, is that correct? Immediately?

10:50 20 A. Yes, yes.

10:50 21 Q. One, two, you went right to him?

10:50 22 A. After I looked at the pictures, I recognized the guy.

10:50 23 Q. Okay. So when you looked at the array, it took you two

10:50 24 seconds?

10:50 25 A. It may have been longer than two seconds.

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10:50 1 Q. Okay. How long do you believe it took you?

10:50 2 A. Maybe 30 seconds.

10:50 3 Q. And you identified the individual, and did you think it
10:50 4 looked like him, or, you know, what did you say?

10:50 5 **MR. DOEH:** Objection, Your Honor.

10:50 6 **THE COURT:** Mr. Scharg, I mean, I can see that you
10:50 7 want to establish whether she had an opportunity to really
10:50 8 view him and make that connection, but these questions go
10:50 9 significantly beyond that. Sustained.

10:50 10 **MR. SCHARG:** Very good. I have no further
10:50 11 questions.

10:50 12 **MR. DOEH:** No questions, Your Honor.

10:50 13 **THE COURT:** All right. Thank you, Ms. Howard, you
10:50 14 may step down.

10:50 15 (Witness excused 10:52 a.m.)

10:51 16 **MR. SCHARG:** I have no argument.

10:51 17 **THE COURT:** You have no argument, so you concede?

10:51 18 **MR. SCHARG:** I have no argument, and I know I have
10:51 19 the burden, and I have no argument to make toward that burden.

10:51 20 **THE COURT:** This witness clearly is credible and
10:51 21 consistent in her story, had an opportunity to view the
10:51 22 perpetrator, there's nothing suggestive or improper about the
10:51 23 lineup itself, and I don't have any problem with this
10:52 24 identification procedure. So thank you, Ms. Howard.

25 (End of excerpt.)

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C E R T I F I C A T I O N

I, Suzanne Jacques, Official Court Reporter for the United States District Court, Eastern District of Michigan, Southern Division, hereby certify that the foregoing is a correct transcript of the proceedings in the above-entitled cause on the date set forth.

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s:_____

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Suzanne Jacques, RPR, RMR, CRR, FCRR
Official Court Reporter
Eastern District of Michigan

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